

# Calendar No. 543

117TH CONGRESS  
2D SESSION

# S. 1009

[Report No. 117-192]

To amend the Homeland Security Act of 2002 regarding the procurement of certain items related to national security interests for Department of Homeland Security frontline operational components, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 25, 2021

Mrs. SHAHEEN (for herself, Mr. MORAN, Ms. HASSAN, Mr. ROUNDS, and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

NOVEMBER 14, 2022

Reported by Mr. PETERS, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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## A BILL

To amend the Homeland Security Act of 2002 regarding the procurement of certain items related to national security interests for Department of Homeland Security frontline operational components, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Homeland Procure-  
3 ment Reform Act” or the “HOPR Act”.

4 **SEC. 2. REQUIREMENTS TO BUY CERTAIN ITEMS RELATED  
5 TO NATIONAL SECURITY INTERESTS AC-  
6 CORDING TO CERTAIN CRITERIA.**

7 (a) IN GENERAL.—Subtitle D of title VIII of the  
8 Homeland Security Act of 2002 (6 U.S.C. 391 et seq.)  
9 is amended by adding at the end the following:

10 **“SEC. 836. REQUIREMENTS TO BUY CERTAIN ITEMS RE-  
11 LATED TO NATIONAL SECURITY INTERESTS.**

12 “(a) DEFINITIONS.—In this section:

13 “(1) COVERED ITEM.—The term ‘covered item’  
14 means any of the following:

15 “(A) Body armor components intended to  
16 provide ballistic protection for an individual,  
17 consisting of 1 or more of the following:

18 “(i) Soft ballistic panels.

19 “(ii) Hard ballistic plates.

20 “(iii) Concealed armor carriers worn  
21 under a uniform.

22 “(iv) External armor carriers worn  
23 over a uniform.

24 “(B) Helmets that provide ballistic protec-  
25 tion and other head protection and components.

26 “(C) Protective eyewear.

- 1           “(D) Rain gear, cold weather gear, other  
2           environmental and flame-resistant clothing.
- 3           “(E) Footwear.
- 4           “(F) Uniforms.
- 5           “(G) Bags and packs.
- 6           “(H) Holsters and tactical pouches.
- 7           “(I) Patches, insignia, and embellishments.
- 8           “(J) Respiratory protective masks.
- 9           “(K) Chemical, biological, radiological, and  
10          nuclear protective gear.
- 11          “(L) Hearing protection equipment.
- 12          “(M) Powered air purifying respirators  
13          and required filters.
- 14          “(N) Disposable and reusable surgical and  
15          isolation gowns.
- 16          “(O) Protective eyewear.
- 17          “(P) Gloves.
- 18          “(Q) Face shields.
- 19          “(R) Head and foot coverings.
- 20          “(S) Sanitizing and disinfecting wipes.
- 21          “(T) Privacy curtains.
- 22          “(U) Beds and bedding.
- 23          “(V) Testing swabs.
- 24          “(W) Gauze and bandages.
- 25          “(X) Tents and tarpaulins.

1               “(Y) Any other critical safety item as de-  
2               termined appropriate by the Secretary.

3               **“(2) FRONTLINE OPERATIONAL COMPONENT.—**

4               The term ‘frontline operational component’ means  
5               any of the following components of the Department:

6               “(A) U.S. Customs and Border Protection.

7               “(B) U.S. Immigration and Customs En-  
8               forcement.

9               “(C) The United States Secret Service.

10               “(D) The Transportation Security Admin-  
11               istration.

12               “(E) The Cybersecurity and Infrastructure  
13               Security Agency.

14               “(F) The Federal Protective Service.

15               “(G) The Federal Emergency Management  
16               Agency.

17               “(H) The Federal Law Enforcement  
18               Training Centers.

19               **“(b) REQUIREMENTS.—**

20               **“(1) IN GENERAL.—**The Secretary shall ensure  
21               that any procurement of a covered item for a front-  
22               line operational component meets the following cri-  
23               teria:

24               “(A) To the maximum extent possible, not  
25               less than one-third of funds obligated in a spe-

1           eifie fiscal year for the procurement of such  
2           covered items shall be covered items that are  
3           manufactured in the United States by entities  
4           that qualify as small business eonecerns, as such  
5           term is deseribed under section 3 of the Small  
6           Business Aet (15 U.S.C. 632).

7           “(B) Each contractor and first-tier subcon-  
8           tractor with respect to the procurement of such  
9           a eovered item, including the end-item manufac-  
10          turer of such a eovered item—

11           “(i) is an entity registered with the  
12          System for Award Management (or suc-  
13          cessor system) administered by the General  
14          Services Administration; and

15           “(ii) is in compliance with ISO  
16          9001:2015 of the International Organiza-  
17          tion for Standardization (or successor  
18          standard).

19           “(C) Each supplier of such a eovered item  
20          with an insignia (such as any patch, badge, or  
21          emblem) and each supplier of such an insignia,  
22          if such eovered item with such insignia or such  
23          insignia, as the case may be, is not produced,  
24          applied, or assembled in the United States,  
25          shall—

1               “(i) store such covered item with such  
2               insignia or such insignia in a locked area;

3               “(ii) report any pilferage or theft of  
4               such covered item with such insignia or  
5               such insignia occurring at any stage before  
6               delivery of such covered item with such in-  
7               signia or such insignia; and

8               “(iii) destroy any such defective or  
9               unusable covered item with insignia or in-  
10               signia in a manner established by the Sec-  
11               retary, and maintain records, for three  
12               years after the creation of such records, of  
13               such destruction that include the date of  
14               such destruction, a description of the cov-  
15               ered item with insignia or insignia de-  
16               stroyed, the quantity of the covered item  
17               with insignia or insignia destroyed, and the  
18               method of destruction.

19               “(2) WAIVER.—

20               “(A) IN GENERAL.—In the case of a na-  
21               tional emergency declared by the President  
22               under the National Emergencies Act (50 U.S.C.  
23               4601 et seq.), the Secretary may waive a re-  
24               quirement in subparagraph (B) or (C) of para-  
25               graph (1) if the Secretary determines there is

1           an insufficient supply of a covered item that  
2        meets the requirement.

3           “(B) NOTICE.—If the Secretary deter-  
4        mines a waiver under subparagraph (A) is nee-  
5        cessary, the Secretary shall provide to the Com-  
6        mittee on Homeland Security and Govern-  
7        mental Affairs and the Committee on Appropria-  
8        tions of the Senate and the Committee on  
9        Homeland Security, the Committee on Over-  
10       sight and Reform, and the Committee on Ap-  
11       propriations of the House of Representatives  
12       notice of such determination, which shall in-  
13       clude—

14           “(i) identification of the national  
15        emergency declared by the President;

16           “(ii) identification of the covered item  
17        for which the Secretary intends to issue  
18        the waiver; and

19           “(iii) a description of the demand for  
20        the covered item and corresponding lack of  
21        supply from contractors able to meet the  
22        criteria described in subparagraph (B) or  
23        (C) of paragraph (1).

24           “(e) PRICING.—The Secretary shall ensure that cov-  
25        ered items are purchased at a fair and reasonable price;

1 consistent with the procedures and guidelines specified in  
2 the Federal Acquisition Regulation.

3       “(d) REPORT.—Not later than 180 days after the  
4 date of enactment of this section and annually thereafter,  
5 the Secretary shall provide to the Committee on Homeland  
6 Security, the Committee on Oversight and Reform, and  
7 the Committee on Appropriations of the House of Rep-  
8 resentatives, and the Committee on Homeland Security  
9 and Governmental Affairs and the Committee on Approp-  
10 priations of the Senate a report on instances in which ven-  
11 dors have failed to meet deadlines for delivery of covered  
12 items and corrective actions taken by the Department in  
13 response to such instances.

14       “(e) EFFECTIVE DATE.—This section applies with  
15 respect to a contract entered into by the Department or  
16 any frontline operational component on or after October  
17 1, 2021.”

18       (b) STUDY.—

19           (1) IN GENERAL.—Not later than 1 year after  
20 the date of enactment of this Act, the Secretary of  
21 Homeland Security shall submit to the Committee  
22 on Homeland Security and Governmental Affairs of  
23 the Senate and the Committee on Homeland Secu-  
24 rity of the House of Representatives a study of the  
25 adequacy of allowances provided to employees of

1       frontline operational components (as defined in sec-  
2       tion 836 of the Homeland Security Act of 2002, as  
3       added by subsection (a)).

4                     (2) REQUIREMENTS.—The study conducted  
5       under paragraph (1) shall—

6                     (A) be informed by a Department-wide  
7       survey of employees from across the Depart-  
8       ment who receive uniform allowances that seeks  
9       to ascertain what, if any, improvements could  
10      be made to the current uniform allowances and  
11      what, if any, impacts current allowances have  
12      had on employee morale and retention; and

13                     (B) consider increasing by 25 percent, at  
14      minimum, the uniform allowance for first year  
15      employees and by 50 percent, at minimum, the  
16      annual allowance for all other employees.

17                     (e) CLERICAL AMENDMENT.—The table of contents  
18      in section 1(b) of the Homeland Security Act of 2002  
19      (Public Law 107-296; 116 Stat. 2135) is amended by in-  
20      serting after the item relating to section 835 the following:

“Sec. 836. Requirements to buy certain items related to national security inter-  
ests.”.

21     **SECTION 1. SHORT TITLE.**

22        *This Act may be cited as the “Homeland Procurement  
23      Reform Act” or the “HOPR Act”.*

1   **SEC. 2. REQUIREMENTS TO BUY CERTAIN ITEMS RELATED  
2                                  TO NATIONAL SECURITY INTERESTS ACCORD-  
3                                  ING TO CERTAIN CRITERIA.**

4       (a) *IN GENERAL.*—Subtitle D of title VIII of the  
5   Homeland Security Act of 2002 (6 U.S.C. 391 et seq.) is  
6   amended by adding at the end the following:

7   **“SEC. 836. REQUIREMENTS TO BUY CERTAIN ITEMS RE-  
8                                  LATED TO NATIONAL SECURITY INTERESTS.**

9       “(a) *DEFINITIONS.*—In this section:

10       “(1) *COVERED ITEM.*—The term ‘covered item’  
11   means any of the following:

12       “(A) *Footwear provided as part of a uni-  
13                                  form.*

14       “(B) *Uniforms.*

15       “(C) *Holsters and tactical pouches.*

16       “(D) *Patches, insignia, and embellishments.*

17       “(E) *Chemical, biological, radiological, and  
18                                  nuclear protective gear.*

19       “(F) *Body armor components intended to  
20                                  provide ballistic protection for an individual,  
21                                  consisting of 1 or more of the following:*

22       “(i) *Soft ballistic panels.*

23       “(ii) *Hard ballistic plates.*

24       “(iii) *Concealed armor carriers worn  
25                                  under a uniform.*

1                 “(iv) External armor carriers worn  
2                 over a uniform.

3                 “(G) Any other item as determined appro-  
4                 priate by the Secretary.

5                 “(2) FRONTLINE OPERATIONAL COMPONENT.—

6                 The term ‘frontline operational component’ means  
7                 any of the following organizations of the Department:

8                 “(A) U.S. Customs and Border Protection.

9                 “(B) U.S. Immigration and Customs En-  
10                 forcement.

11                 “(C) The United States Secret Service.

12                 “(D) The Transportation Security Adminis-  
13                 tration.

14                 “(E) The Coast Guard.

15                 “(F) The Federal Protective Service.

16                 “(G) The Federal Emergency Management  
17                 Agency.

18                 “(H) The Federal Law Enforcement Train-  
19                 ing Centers.

20                 “(I) The Cybersecurity and Infrastructure  
21                 Security Agency.

22                 “(b) REQUIREMENTS.—

23                 “(1) IN GENERAL.—The Secretary shall ensure  
24                 that any procurement of a covered item for a front-

1       line operational component meets the following cri-  
2       teria:

3                 “(A) To the maximum extent possible, not  
4       less than one-third of funds obligated in a spe-  
5       cific fiscal year for the procurement of such cov-  
6       ered items shall be covered items that are manu-  
7       factured in the United States by entities that  
8       qualify as small business concerns, as defined in  
9       section 3 of the Small Business Act (15 U.S.C.  
10      632).

11                 “(B) Each contractor with respect to the  
12      procurement of such a covered item, including  
13      the end-item manufacturer of such a covered  
14      item—

15                         “(i) is an entity registered with the  
16      System for Award Management (or suc-  
17      cessor system) administered by the General  
18      Services Administration; and

19                         “(ii) is in compliance with ISO  
20      9001:2015 of the International Organiza-  
21      tion for Standardization (or successor  
22      standard) or a standard determined appro-  
23      priate by the Secretary to ensure the quality  
24      of products and adherence to applicable  
25      statutory and regulatory requirements.

1               “(C) Each supplier of such a covered item  
2       with an insignia (such as any patch, badge, or  
3       emblem) and each supplier of such an insignia,  
4       if such covered item with such insignia or such  
5       insignia, as the case may be, is not produced,  
6       applied, or assembled in the United States,  
7       shall—

- 8               “(i) store such covered item with such  
9       insignia or such insignia in a locked area;
- 10              “(ii) report any pilferage or theft of  
11       such covered item with such insignia or  
12       such insignia occurring at any stage before  
13       delivery of such covered item with such in-  
14       signia or such insignia; and
- 15              “(iii) destroy any such defective or un-  
16       usable covered item with insignia or insig-  
17       nia in a manner established by the Sec-  
18       retary, and maintain records, for three  
19       years after the creation of such records, of  
20       such destruction that include the date of  
21       such destruction, a description of the cov-  
22       ered item with insignia or insignia de-  
23       stroyed, the quantity of the covered item  
24       with insignia or insignia destroyed, and the  
25       method of destruction.

1           “(2) WAIVER.—

2           “(A) IN GENERAL.—*In the case of a na-*  
3           *tional emergency declared by the President under*  
4           *the National Emergencies Act (50 U.S.C. 1601 et*  
5           *seq.) or a major disaster declared by the Presi-*  
6           *dent under section 401 of the Robert T. Stafford*  
7           *Disaster Relief and Emergency Assistance Act*  
8           *(42 U.S.C. 5170), the Secretary may waive a re-*  
9           *quirement in subparagraph (A), (B) or (C) of*  
10          *paragraph (1) if the Secretary determines there*  
11          *is an insufficient supply of a covered item that*  
12          *meets the requirement.*

13          “(B) NOTICE.—*Not later than 60 days after*  
14          *the date on which the Secretary determines a*  
15          *waiver under subparagraph (A) is necessary, the*  
16          *Secretary shall provide to the Committee on*  
17          *Homeland Security and Governmental Affairs*  
18          *and the Committee on Appropriations of the*  
19          *Senate and the Committee on Homeland Secu-*  
20          *rity, the Committee on Oversight and Reform,*  
21          *and the Committee on Appropriations of the*  
22          *House of Representatives notice of such deter-*  
23          *mination, which shall include—*

1                   “(i) identification of the national  
2                   emergency or major disaster declared by the  
3                   President;

4                   “(ii) identification of the covered item  
5                   for which the Secretary intends to issue the  
6                   waiver; and

7                   “(iii) a description of the demand for  
8                   the covered item and corresponding lack of  
9                   supply from contractors able to meet the  
10                  criteria described in subparagraph (B) or  
11                  (C) of paragraph (1).

12                 “(c) PRICING.—The Secretary shall ensure that covered  
13                 items are purchased at a fair and reasonable price, con-  
14                 sistent with the procedures and guidelines specified in the  
15                 Federal Acquisition Regulation.

16                 “(d) REPORT.—Not later than 1 year after the date  
17                 of enactment of this section and annually thereafter, the  
18                 Secretary shall provide to the Committee on Homeland Se-  
19                 curity, the Committee on Oversight and Reform, and the  
20                 Committee on Appropriations of the House of Representa-  
21                 tives, and the Committee on Homeland Security and Gov-  
22                 ernmental Affairs and the Committee on Appropriations of  
23                 the Senate a briefing on instances in which vendors have  
24                 failed to meet deadlines for delivery of covered items and

1 corrective actions taken by the Department in response to  
2 such instances.

3 “(e) *EFFECTIVE DATE*.—This section applies with re-  
4 spect to a contract entered into by the Department or any  
5 frontline operational component on or after the date that  
6 is 180 days after the date of enactment of this section.”.

7 (b) *STUDY*.—

8 (1) *IN GENERAL*.—Not later than 18 months  
9 after the date of enactment of this Act, the Secretary  
10 of Homeland Security shall submit to the Committee  
11 on Homeland Security and Governmental Affairs of  
12 the Senate and the Committee on Homeland Security  
13 of the House of Representatives a study of the ade-  
14 quacy of uniform allowances provided to employees of  
15 frontline operational components (as defined in sec-  
16 tion 836 of the Homeland Security Act of 2002, as  
17 added by subsection (a)).

18 (2) *REQUIREMENTS*.—The study conducted  
19 under paragraph (1) shall—

20 (A) be informed by a Department-wide sur-  
21 vey of employees from across the Department of  
22 Homeland Security who receive uniform allow-  
23 ances that seeks to ascertain what, if any, im-  
24 provements could be made to the current uniform  
25 allowances and what, if any, impacts current al-

1           *lowances have had on employee morale and re-*  
2           *tention;*

3           *(B) assess the adequacy of the most recent*  
4           *increase made to the uniform allowance for first*  
5           *year employees; and*

6           *(C) consider increasing by 50 percent, at*  
7           *minimum, the annual allowance for all other*  
8           *employees.*

9           *(c) ADDITIONAL REPORT.—*

10          *(1) IN GENERAL.—Not later than 180 days after*  
11          *the date of enactment of this Act, the Secretary of*  
12          *Homeland Security shall provide a report with rec-*  
13          *ommendations on how the Department of Homeland*  
14          *Security could procure additional items from domes-*  
15          *tic sources and bolster the domestic supply chain for*  
16          *items related to national security to—*

17          *(A) the Committee on Homeland Security*  
18          *and Governmental Affairs and the Committee on*  
19          *Appropriations of the Senate; and*

20          *(B) the Committee on Homeland Security,*  
21          *the Committee on Oversight and Reform, and the*  
22          *Committee on Appropriations of the House of*  
23          *Representatives.*

24          *(2) CONTENTS.—The report required under*  
25          *paragraph (1) shall include—*

1                   (A) a review of the compliance of the Department of Homeland Security with the requirements under section 604 of title VI of division A of the American Recovery and Reinvestment Act of 2009 (6 U.S.C. 453b) to buy certain items related to national security interests from sources in the United States; and

8                   (B) an assessment of the capacity of the Department of Homeland Security to procure the following items from domestic sources:

11                  (i) Personal protective equipment and other items necessary to respond to a pandemic such as that caused by COVID–19.

14                  (ii) Helmets that provide ballistic protection and other head protection and components.

17                  (iii) Rain gear, cold weather gear, and other environmental and flame resistant clothing.

20                 (d) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended by inserting after the item relating to section 835 the following:

“Sec. 836. Requirements to buy certain items related to national security interests.”.



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**A BILL**

To amend the Homeland Security Act of 2002 regarding the procurement of certain items related to national security interests for Department of Homeland Security frontline operational components, and for other purposes.

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NOVEMBER 14, 2022

Reported with an amendment